

Remarks

**Claim Rejections - 35 U.S.C. § 103**

**Claim 34**

The examiner rejected claim 34 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,123,275 to Dym in light of the ordinary skill in the art. Claim 34 is a rejected claim from which claims 36 and 37 depend.

Although applicant does not agree with the Examiner's findings, claim 34 has been amended to further distinguish it over the Dym references. Specifically, claim 34 as amended includes the following:

coating the at least one wire frame member with at least one thermoplastic resin that when hardened withstands bending without fracturing; . . .

incorporating the reinforcing member into the brim of the hat, wherein the at least one wire frame member comprises a wire cloth made of a metal that is substantially malleable, substantially ductile, and provides structural plasticity.

Support for this amendment can be found in the specification as originally filed and with reference to the corresponding Patent Application Publication No. US 2003/0041367, paragraphs [0034] and [0036].

The Dym reference does not disclose, teach or suggest the elements of amended claim 34. Dym teaches protective headgear

made of a molded plastic and rib knit textile fabric (FIG. 6), or molded plastic with a rib knit textile fabric and a composite woven cloth of vegetable fiber and wire (FIG. 9). The molded plastic is disclosed as being a very hard material to provide the protective features of the headgear. As provided on page 2 of Dym, column 1, line 72 to column 2, line 5:

Most suitably, however, the headgear is made from moldable plastics of the type comprising organic condensation products, commonly termed synthetic resins, or resinoils. These materials are initially plastic and moldable, but after being subjected to heat and pressure that become very hard, infusible, electrically non-conducting, insoluble in organic solvents, dilute acids and alkalies, and inert to steam and oil.

Accordingly, Dym does not disclose, teach or suggest a thermoplastic resin that can withstand bending without fracturing. Dym instead discloses a very hard material that would not be bendable without fracturing. Dym does not disclose teach or suggest this and other limitations of amended claim 34. Amended claim 34 is allowable over Dym.

#### **Claims 36-37**

The examiner rejected claim 36 and 37 under 35 U.S.C. § 103(a) as being unpatentable of Dym in view of U.S. Patent No. 985,488 to Wright. Applicant does not agree with the examiner's findings herein, but respectfully points out that these claims depend from allowable claim 34 and are also allowable.

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## New Claims

Applicant added claims 38-40. The subject matter of these claims is similar to previously canceled claims 33 and 35, that were canceled to facilitate issuance of subject matter the examiner's previously found to be allowable. In light of the examiner's newly cited art and rejection of the previously allowable claims, the applicant is adding back in the canceled subject matter. The cited references do not disclose, teach or suggest the subject matter of these claims.

Claims 34, 36-40 are now in a condition for allowance. Applicants respectfully request that a timely Notice of allowance be issued in this case.

Respectfully submitted,

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